

SCHWEGMAN ■ LUNDBERG ■ WOESSNER

United States Patent Application
SUBSTITUTE COMBINED REISSUE DECLARATION AND POWER OF ATTORNEY

As a below named inventor I hereby declare that: my residence, post office address and citizenship are as stated below next to my name; that

I verily believe I am the original, first and joint inventor of the subject matter which is claimed and for which a patent is sought on the invention entitled: **APPARATUS FOR TRANSMITTING AND RECEIVING EXECUTABLE APPLICATIONS AS FOR A MULTIMEDIA SYSTEM, AND METHOD AND SYSTEM TO ORDER AN ITEM USING A DISTRIBUTED COMPUTING SYSTEM,**

the specification of which was filed on July 10, 2001 as application serial no. 09/903,457.

I believe original patent 5,819,034 ("the '034 patent"), to be wholly or partly inoperative by reason of my claiming less than I had the right to claim in the patent. The claims of the '034 patent relate to a distributed computer system. For example, claim 1 recites a distributed computer system reciting, inter alia, a "further processor including means to . . . form an interactive video program in which execution of said distributed computing application alters said video program." However, the '034 patent also discloses a method and system that, stated generally, uses a client system to facilitate the determining of an item identity for an item to which an order request pertains, automatically retrieving personal information previously stored in a permanent memory in the client system, and causing an order to be placed, where the order including the item identity and the retrieved personal information. This invention is distinct from the invention claimed in the original patent; and is not in any way claimed in the issued claims of the '034 patent. The above quoted language of issued claim 1 is not necessary for patentability of claims drawn to the identified disclosed but unclaimed invention, and thus the presence of this limitation renders the '034 patent partly inoperative. This error is addressed in this reissue by eliminating limitations found in the issued claims, including the limitation from issued claim 1 of the '034 patent quoted above, and by including claims directed to methods of, and systems for, facilitating ordering an item, where the order includes the item identity and the retrieved previously stored personal information. In particular, the error is addressed by the presentation of claims 165-167, 185, 218-220, 236, 252, and 256-261, drawn to this previously unclaimed invention.

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I acknowledge the duty to disclose information which is material to patentability of this application in accordance with 37 C.F.R. § 1.56 (attached hereto). I also acknowledge my duty to disclose all information known to be material to patentability which became available between a filing date of a prior application and the national or PCT international filing date in the event this is a Continuation-In-Part application in accordance with 37 C.F.R. § 1.63(e).

I hereby claim foreign priority benefits under 35 U.S.C. §119(a)-(d) or 365(b) of any foreign application(s) for patent or inventor's certificate, or 365(a) of any PCT international application which designated at least one country other than the United States of America, listed below and have also identified below any foreign application for patent or inventor's certificate having a filing date before that of the application on the basis of which priority is claimed:

No such claim for priority is being made at this time.

I hereby claim the benefit under 35 U.S.C. § 119(e) of any United States provisional application(s) listed below:

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| Application Number | Filing Date | Status |
|--------------------|---------------------------|----------------|
| 09/672,523 | September 27, 2000 | Pending |

I hereby appoint the attorneys associated with the customer number listed below to prosecute this application and to transact all business in the Patent and Trademark Office connected herewith:

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Citizenship: **United States of America**
Post Office Address: **16124 Orchard Grove Road
Gaithersburg, MD 20878**

Residence: **Gaithersburg, MD**

Signature: Kuriacose Joseph Date: 04/30/2010

Kuriacose Joseph

Full Name of joint inventor number 2: **Ansley Wayne Jessup**

Citizenship: **United States of America**
Post Office Address: **22 Elmwood Lane
Willingboro, NJ 08046**

Residence: **Willingboro, NJ**

Signature: Ansley Wayne Jessup Date: _____

Ansley Wayne Jessup

Full Name of joint inventor number 3: **Vincent Dureau**

Citizenship: **France**
Post Office Address: **3519 S. Court
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Residence: **Palo Alto, CA**

Signature: Vincent Dureau Date: _____

Full Name of joint inventor number 4: **Alain Delpuch**

Citizenship: **France**
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Paris, 75013
France**

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 - (3) Every other person who is substantively involved in the preparation or prosecution of the application and who is associated with the inventor, with the assignee or with anyone to whom there is an obligation to assign the application.
- (d) Individuals other than the attorney, agent or inventor may comply with this section by disclosing information to the attorney, agent, or inventor.

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Signature: Ansley Wayne Jessup Date: May 27, 2010
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Citizenship: France Residence: Palo Alto, CA
Post Office Address: 3519 S. Court
Palo Alto, CA 94306

Signature: Vincent Dureau Date: 05/20/10

X Additional inventors are being named on separately numbered sheets, attached hereto.

Full Name of joint inventor number 4: Alain Delpuch
Citizenship: France Residence: Paris, France
Post Office Address: 36 rue Le Brun
Paris, 75013
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AD

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Alain Delpuch

§ 1.56 Duty to disclose information material to patentability.

(a) A patent by its very nature is affected with a public interest. The public interest is best served, and the most effective patent examination occurs when, at the time an application is being examined, the Office is aware of and evaluates the teachings of all information material to patentability. Each individual associated with the filing and prosecution of a patent application has a duty of candor and good faith in dealing with the Office, which includes a duty to disclose to the Office all information known to that individual to be material to patentability as defined in this section. The duty to disclose information exists with respect to each pending claim until the claim is canceled or withdrawn from consideration, or the application becomes abandoned. Information material to the patentability of a claim that is canceled or withdrawn from consideration need not be submitted if the information is not material to the patentability of any claim remaining under consideration in the application. There is no duty to submit information which is not material to the patentability of any existing claim. The duty to disclose all information known to be material to patentability is deemed to be satisfied if all information known to be material to patentability of any claim issued in a patent was cited by the Office or submitted to the Office in the manner prescribed by §§ 1.97(b)-(d) and 1.98. However, no patent will be granted on an application in connection with which fraud on the Office was practiced or attempted or the duty of disclosure was violated through bad faith or intentional misconduct. The Office encourages applicants to carefully examine:

- (1) prior art cited in search reports of a foreign patent office in a counterpart application, and
- (2) the closest information over which individuals associated with the filing or prosecution of a patent application believe any pending claim patentably defines, to make sure that any material information contained therein is disclosed to the Office.

(b) Under this section, information is material to patentability when it is not cumulative to information already of record or being made of record in the application, and

- (1) It establishes, by itself or in combination with other information, a prima facie case of unpatentability of a claim; or
- (2) It refutes, or is inconsistent with, a position the applicant takes in:
 - (i) Opposing an argument of unpatentability relied on by the Office, or
 - (ii) Asserting an argument of patentability.

A prima facie case of unpatentability is established when the information compels a conclusion that a claim is unpatentable under the preponderance of evidence, burden-of-proof standard, giving each term in the claim its broadest reasonable construction consistent with the specification, and before any consideration is given to evidence which may be submitted in an attempt to establish a contrary conclusion of patentability.

- (c) Individuals associated with the filing or prosecution of a patent application within the meaning of this section are:
 - (1) Each inventor named in the application;
 - (2) Each attorney or agent who prepares or prosecutes the application; and
 - (3) Every other person who is substantively involved in the preparation or prosecution of the application and who is associated with the inventor, with the assignee or with anyone to whom there is an obligation to assign the application.
- (d) Individuals other than the attorney, agent or inventor may comply with this section by disclosing information to the attorney, agent, or inventor.

AD